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11 IN THE UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF WASHINGTON

13 KARLA BOE, AND GABRIEL BOE,  
14 individually, and in their capacities as  
15 parents and guardians of minor student,  
16 O.B., and GRACIE BOE, individually.

17 Plaintiffs,

18 v.

19 MEAD SCHOOL DISTRICT,

20 Defendant.

Case No. 2:23-cv-00319

**COMPLAINT FOR DAMAGES**

**JURY DEMAND**

21 Plaintiffs, by and through their attorneys, allege as follows:

22 **I. PRELIMINARY STATEMENT**

23 1.1 This is a disability discrimination case brought by student O.B. by and  
24 through his parents Karla and Gabriel Boe (at times, “Parents”) against Mead School  
25 District (“Defendant” or “District”). This is also an action for damages as a result of

COMPLAINT FOR DAMAGES AND JURY  
DEMAND – 1

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1 the District's negligence brought by O.B., his Parents, and his sister, Gracie Boe, for  
2 negligent infliction of emotional distress when she witnessed her brother's horrible  
3 injury immediately after it happened and experienced significant emotional distress  
4 as a result.  
5

6 1.2 As a student with Attention-deficit/hyperactivity disorder, O.B. is an  
7 individual with a disability under Section 504 and Title II of the Americans with  
8 Disabilities Act (42 U.S.C. § 12131(2)) of which has led to academic deficits due to  
9 his difficulty sustaining attention, inability to follow through on instructions and  
10 assignments, and failure to complete or timely turn in class assignments.  
11  
12

13 1.3 The District had a duty to evaluate O.B. to determine the extent of his  
14 disability and support his access to a free and appropriate public education. Instead,  
15 the District refused to provide reasonable accommodations and instead created a  
16 volatile environment, exacerbating O.B.'s impulsivity and emotional instability. As  
17 a result of his crushing anxiety about school and feelings of failure, O.B. impulsively  
18 attempted to take his own life and ended up permanently blinding himself.  
19  
20

21 1.4 The severe mental and emotional anguish O.B. experienced as a direct  
22 result of the District's failures was foreseeable. The District was aware of O.B.'s  
23 diagnoses and through repeated advocacy from O.B., his Parents, his psychiatrist,  
24 and his teachers. The District knew O.B. was not accessing his education and that a  
25

1 504 Plan would have provided the support he needed. Yet, the District failed to act.

2 1.5 The level of anxiety that school caused O.B., with no support, became  
3 too great for him. On the evening of Sunday, January 9, 2022, in trepidation of his  
4 return to school the next morning, O.B. was so overwhelmed that he attempted to  
5 take his own life. The resulting gunshot wound to the head severed his ocular nerve  
6 and left him permanently blind.  
7

8  
9 1.6 Now, Plaintiff, O.B., by and through his parents and attorneys, brings  
10 this action against Defendant for violations of his rights under Section 504 of the  
11 Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (42  
12 U.S.C. § 12131(2)).  
13

14 1.7 Plaintiffs also bring claims under Washington state law to include  
15 Negligence, Bystander Negligent Infliction of Emotional Distress, and Loss of  
16 Consortium.  
17

## 18 II. PARTIES

19  
20 2.1 Plaintiff O.B. is currently 15 years old and lives with his parents in  
21 Colbert, Washington. O.B. is Blind and diagnosed with Attention Deficit  
22 Hyperactivity Disorder (ADHD).  
23

24 2.2 O.B. qualifies as an “individual with a disability” within the meaning  
25 of Section 504 and Title II of the Americans with Disabilities Act (42 U.S.C. §

1 12131(2)), in that he has a mental impairment that substantially limits his ability to  
2 perform one or more major life activities and who, with or without a reasonable  
3 modification of educational program requirements, meets the essential eligibility  
4 requirement for the receipt of special education and other services provided by the  
5 District.  
6

7  
8 2.3 Plaintiff Gracie Boe is O.B.’s sister. Gracie is currently 18 years old  
9 and is a Washington State resident.

10 2.4 Plaintiffs Karla Boe and Gabriel Boe are the parents (hereinafter  
11 “Parents”) of O.B. and are Washington State residents.  
12

13 2.5 At all material times the Plaintiffs were all residents of the city of  
14 Colbert, in the County of Spokane, State of Washington.  
15

16 2.6 Defendant Mead School District (“Defendant” or “District”) is a public  
17 educational institution located in the County of Spokane, City of Mead, State of  
18 Washington.  
19

20 2.7 At the time of the events complained herein, O.B. was a student  
21 attending Mountainside Middle School within the District.  
22

23 2.8 The District is a recipient of federal funding from the U.S. Department  
24 of Education under Section 504 of the Rehabilitation Act of 1973 (“Section 504”)  
25 and is a “public entity” as defined by the Americans with Disabilities Act, Act, 42

1 U.S.C. §12101 et seq., (“ADA”), and is a Washington “public school” under Revised  
2 Code Washington Section 28A.150.010.

### 3 4 **III. JURISDICTION AND VENUE**

5 3.1 This case arises under Washington state law, the Washington state  
6 Constitution, federal law, and the federal Constitution.

7  
8 3.2 This Court has personal jurisdiction over the parties and subject matter  
9 jurisdiction for the claims in this complaint pursuant to jurisdiction under 28 U.S.C.  
10 § 1331. This Court has supplemental jurisdiction over Washington state claims under  
11 28 U.S.C. § 1367(a).

12  
13 3.3 Jurisdiction is also proper in this Court pursuant to RCW 4.96.020,  
14 because Plaintiffs served tort claims on the Mead School District and more than sixty  
15 days have passed.

16  
17 3.4 Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because both  
18 Parties are located here within the Eastern District of Washington, and the events  
19 giving rise to this Complaint occurred within the Eastern District of Washington.

20  
21 3.5 Pursuant to RCW 4.96.020, more than 60 days have passed since  
22 Plaintiffs presented a completed tort claim to Defendant District on May 3, 2023 in  
23 advance of this lawsuit.  
24  
25

### III. FACTUAL ALLEGATIONS

4.1 Plaintiff O.B. is diagnosed with Attention-deficit/hyperactivity disorder (ADHD). O.B.'s ADHD has resulted in academic deficits linked to difficulty sustaining attention, following through on instructions and assignments, and failure to complete or timely turn in class assignments. He has also been diagnosed with unspecified anxiety disorder and has exhibited signs and symptoms of depression. He is also now blind as a result of Defendant's acts and omissions.

4.2 O.B. was first diagnosed with ADHD in 2014. He received medication management and counseling to manage his diagnosis.

4.3 In November 2019, O.B. and his family moved into the Mead School District ("Defendant" or "District"). O.B. attended 6<sup>th</sup> grade at Colbert Elementary School for the remainder of the 2019-2020 school year.

4.4 When O.B. entered the District, his Parents informed the District that O.B. had ADHD. The District also obtained records from O.B.'s previous district in Ellensburg which revealed that O.B. was diagnosed with ADHD and that he was taking medication for ADHD.

4.5 When his mother enrolled O.B. into the District, she expressly asked for a 504-learning-support-plan ("504 plan") to help O.B. access his education in the new district.

1           4.6 His mother properly understood from O.B.'s prior school district  
2 psychologist that a 504 plan is a formal document issued by the District and shared  
3 with teachers so that the student's educational program can be appropriately  
4 accommodated and modified to support his disability through accommodations and  
5 modifications to the general education program and to prevent disability-related  
6 discrimination in the school setting.  
7

8  
9           4.7 But despite the mother's request, the District did not develop a 504 plan  
10 to address O.B.'s ADHD-related struggles at school.  
11

12           4.8 Due to O.B.'s ongoing disability-related academic struggles, in May  
13 2020, the parents had O.B. evaluated by Dr. Thomas Beck at the Winston Center, an  
14 ADHD & Dyslexia Specialty Center in Spokane, Washington. Dr. Beck confirmed  
15 O.B.'s ADHD diagnosis with predominantly inattentive presentation and diagnosed  
16 O.B. with an unspecified anxiety disorder. O.B.'s parents provided the complete  
17 evaluation to the District and reiterated their request for a 504 plan to provide O.B.  
18 with school-based supports.  
19  
20

21           4.9 Since completing the evaluation, Dr. Beck has been O.B.'s treating  
22 psychiatrist and has overseen the medication O.B. takes to manage his ADHD.  
23

24           4.10 In September 2020, O.B. started 7th grade at Mountainside Middle  
25 School within the District ("Mountainside"). The school year started virtually due to

1 the COVID-19 pandemic. O.B. had trouble in multiple classes – struggling to  
2 comprehend the assignments and instructions and failing to complete assignments  
3 on time or at all. His academic problems exacerbated his anxiety disorder and  
4 contributed to feelings of frustration and hopelessness.  
5

6 4.11 The Parents witnessed their son struggle and were concerned he was  
7 not getting the requested 504 supports. The Parents strongly advocated on O.B.’s  
8 behalf. They communicated with his teachers and to the school administration about  
9 their concerns regarding O.B.’s academic struggles and repeated request for  
10 supports.  
11  
12

13 4.12 Even O.B.’s teachers expressed concerns to the District that O.B.  
14 needed disability-related accommodations, because he was struggling academically  
15 as a result of his ADHD. For example:  
16

- 17 • On February 19, 2021, O.B.’s 7<sup>th</sup> grade science teacher, Benjamin  
18 Hunter, emailed the Parents because O.B. needed intervention time  
19 for his science class.  
20
- 21 • On O.B.’s February 22, 2021 report card, his teachers expressed  
22 concern regarding O.B.’s ability to succeed academically. His  
23 English teacher, Hannah Webley commented that O.B. turned in in  
24 low quality or incomplete work, that he did not engage over Zoom,  
25



1 or use class time productively, and that missing and incomplete  
2 assignments were negatively impacting his grades. His science  
3 teacher, Mr. Hunter, likewise noted that O.B. failed to use class time  
4 productively. His Health/Physical Education teacher, Melissa  
5 Braddock-Mather, said O.B. was not turning in his activity logs. His  
6 Social Studies teacher, Kelly Creasey, commented that O.B. was  
7 frequently absent from class and she needed O.B. to communicate  
8 with her more and to get more involved in actively learning in class.  
9  
10  
11

- 12 • On March 5, 2021, O.B.'s STEM teacher, Zoe Taylor, emailed the  
13 Parents that O.B. needed intervention for her class.

14 4.13 Despite this near unanimity amongst his teachers that O.B. was not  
15 performing well at school, the District continued to refuse to develop and implement  
16 a 504 plan. As a result, O.B. continued to struggle.  
17

18 4.14 During a March 15, 2021 meeting with O.B., Dr. Beck noted that O.B.  
19 was not doing well in school and that O.B.'s mood was all over the place. O.B.  
20 reported to Dr. Beck that the COVID-related changes at school were a huge stressor  
21 for him; that he had low energy; and that was struggling with memory problems.  
22 Plaintiff Karla Boe reported to Dr. Beck that O.B. was highly emotional and  
23 struggling in school.  
24  
25

1           4.15 On March 16, 2021, Dr. Beck wrote a letter unequivocally requesting  
2 that the District provide O.B. with a Section 504 learning support plan to assist O.B.  
3 because his ADHD was impacting his ability in the academic setting. In the letter,  
4 Dr. Beck provided suggested accommodations that would assist O.B. with executive  
5 functioning at school. The suggested accommodations included providing O.B. with  
6 a quiet low-distraction environment, extended times on assignments, providing O.B.  
7 with checklists or graphic organizers, providing him class notes/written assignment  
8 lists, chunking instructions, always allowing O.B. access to assistive technology, and  
9 allowing breaks as needed.  
10

11  
12  
13           4.16 On March 18, 2021, an email signed by O.B.'s core teachers (science,  
14 social studies, English, and math) cited concerns about O.B.'s performance and  
15 engagement in classes, noting that O.B. had multiple Ds and three Fs for overall  
16 quarter grades. The Parents responded to the email that O.B.'s psychiatrist was  
17 recommending a 504 plan, and the Parents were working with O.B. to assist him  
18 with classes. The Parents attached and redistributed Dr. Beck's March 16, 2021 letter  
19 requesting a 504 plan.  
20  
21

22           4.17 That same day, the Parents emailed O.B.'s English teacher, Hannah  
23 Webley, about academic supports for O.B. In terms of providing O.B. with  
24 assistance, Ms. Webley stated that she would ask in the group setting for people who  
25

1 needed help but given that the class was not conducted in-person, it was difficult to  
2 check in with him individually.

3  
4 4.18 The Parents also emailed the school counselor, Todd Johnson, on  
5 March 18, 2021. Again, they formally requested a 504 plan and raised concerns  
6 about O.B.'s challenges in school and the lack of communication and assistance  
7 from teachers. Particularly in English, the Parents considered homeschooling him in  
8 English if the teacher was not going to work with O.B. and make accommodations  
9 for him. The Parents attached Dr. Beck's March 16, 2021 letter recommending a 504  
10 plan and asked that O.B. receive accommodations given that his ADHD was  
11 interfering with his education.  
12  
13

14 4.19 Mr. Johnson arranged a meeting and added Assistant Principal Jon  
15 Iverson to the email thread. However, Mr. Johnson refused to implement a 504 plan  
16 and put the onus back on the Parents to initiate support for O.B.  
17  
18

19 4.20 On March 25, 2021, O.B. and his Parents met with Mr. Johnson, again  
20 requesting a 504 plan for O.B. Despite having had a 504 plan implemented at his  
21 prior district, the history of teacher concerns, multiple requests from family, and the  
22 formal evaluation and letter from Dr. Beck, Mr. Johnson unilaterally determined that  
23 O.B. did *not* need a 504 plan, since - according to him - O.B.'s grades were "not that  
24 bad."  
25

1           4.21 Following the meeting, Mr. Johnson sent an email to the Parents, O.B.'s  
2 teachers, and other School administrators that starting on March 29<sup>th</sup>, O.B. would be  
3 transitioning from virtual to in-person learning. Approximately five minutes later,  
4 O.B.'s science teacher, Mr. Hunter, responded to the email thread asking for the  
5 status of O.B.'s 504 accommodations. No one from the District responded.  
6

7  
8           4.22 On March 29, 2021, O.B. returned to in-person learning without a 504  
9 plan. Not surprisingly, he continued to struggle following instructions and with  
10 completing assignments.  
11

12           4.23 On June 21, 2021, the Parents emailed O.B.'s STEM teacher,  
13 Ms. Taylor, asking about 504 accommodations. The Parents did not receive a  
14 response.  
15

16           4.24 O.B. did not receive any disability accommodations from the District  
17 for the remainder of the year. Additionally, Mr. Johnson only checked in with O.B.  
18 once, approximately three weeks after the meeting with O.B.'s parents. No one from  
19 the District reached out to the Parents regarding teacher observations, O.B.'s  
20 progress, or a 504 plan. The District never implemented a 504 plan during the 2020-  
21 2021 school year.  
22  
23

24           4.25 In September 2021, O.B. began 8<sup>th</sup> grade at Mountainside Middle  
25 School.

1           4.26 Just like the prior year, the District never followed up with the Parents  
2 or O.B. regarding a 504 plan or any evaluations made by O.B.'s teachers from the  
3 previous school year.  
4

5           4.27 In an October 25, 2021, email with O.B.'s 8<sup>th</sup> grade English teacher,  
6 Ryan Henderson, the mother explained O.B.'s difficulties focusing and explained  
7 their ongoing efforts to obtain a 504 plan.  
8

9           4.28 During the fall of 2021, O.B. was irritable and moody and his mother  
10 noted to Dr. Beck that he was struggling with writing.  
11

12           4.29 O.B. continued to struggle in class. He would ask for help or  
13 clarification in-person or through email and was often ignored. He became  
14 frustrated. He would ask for more time to complete assignments and when those  
15 requests were denied and O.B. received penalties for late assignments – O.B. became  
16 more and more overwhelmed and helpless. He felt as if none of the adults at school  
17 were listening to him.  
18  
19

20           4.30 O.B. had a lot of challenges in English. He struggled with non-fiction  
21 and overall, he had difficulty completing the assignments.  
22

23           4.31 His anxiety in English was heightened, given that the English teacher,  
24 Ryan Henderson, forced students to read their assignment grades out loud. Students  
25 would grade other students' assignments. Then, the assignment would be handed

1 back to the student. Then, each student was asked to read their grade out loud so that  
2 Mr. Henderson could make note of the grade. This happened on a weekly basis.  
3 Given his poor grades, the publicizing of his poor performance in English heightened  
4 O.B.'s dread of school, especially since he was struggling in a class with no learning  
5 supports.  
6

7  
8 4.32 At the same time, when he would ask for help in English, the teacher,  
9 Mr. Henderson would often ignore his raised-hand or would just repeat the same  
10 instructions that were written, making little effort to ensure that O.B. understood the  
11 assignment.  
12

13 4.33 In the absence of a 504 plan, O.B. had no recourse to counter his  
14 teachers' refusal to accommodate his academic struggles.  
15

16 4.34 O.B told his Parents that his assignments were too difficult and that he  
17 felt discouraged because he would run out of time to complete them.  
18

19 4.35 On top of his academic struggles, students began bullying O.B.

20 4.36 Because O.B. was not receiving support from the District, his Parents  
21 and his sisters had to assist him with his assignments for him to complete them on  
22 time.  
23

24 4.37 Two of his teachers, Mr. Hunter (7th grade science teacher), and Chris  
25 Weiland (8th grade science teacher) reported that O.B. was struggling to grasp

1 instructions and complete timely assignments. They suggested that he would benefit  
2 from accommodations such as those provided in a 504 plan, but the administration  
3 continued to refuse to take any action.  
4

5 4.38 On November 17, 2021, Dr. Beck's office faxed the District a second  
6 request to implement a 504 plan. The District did not follow up with the Parents or  
7 O.B. about this request.  
8

9 4.39 Given all of the above, there is a pattern and practice of the Mead  
10 School District of resisting requests for 504 evaluations and plans for its students  
11 that took place with respect to O.B. and other children in the district.  
12

13 4.40 The District's ongoing refusal despite multiple requests from O.B.,  
14 parents, and his treating providers to implement a 504 plan resulted in O.B.  
15 continuing to struggle in school, both academically and emotionally.  
16

17 4.41 About a week before the 2021 winter break, O.B. told his Parents that  
18 he hated school, that he did not want to go until he had adequate support. His Mother  
19 promised she would follow up again with the District and encouraged him to finish  
20 out the semester.  
21

22 4.42 On the evening of Sunday, January 9, 2022, O.B.'s Parents went to pick  
23 up dinner for the family at a local burger shop. On the way out the door, they  
24 reminded O.B. that he had schoolwork to finish.  
25

1           4.43 Almost instantly, O.B.'s mood changed, and he was overcome by the  
2 dread of having to return to school where he was unsupported and failing. In that  
3 moment, he felt that he simply could not take it anymore.

4           4.44 O.B. went up into his Parents' room, accessed the gun that his family  
5 kept safely stored and unloaded in the Parents' bedroom.

6           4.45 O.B. then loaded the gun and shot himself through the left temple.

7           4.46 Psychological records from the hospital detail that O.B. saw a flash of  
8 light before everything went dark.

9           4.47 O.B.'s sister, Plaintiff Gracie Boe, was in the house at the time. When  
10 O.B. pulled the trigger, she heard the gunshot and heard O.B. scream her name and  
11 shout that he had just shot his eyes out. She ran to find O.B. with blood pouring from  
12 his head around his eyes.

13           4.48 Gracie called her mother shrieking saying she had to call 911 but did  
14 not explain to the Parents why. She said the Parents needed to come home  
15 immediately. She then called 911 and the paramedics arrived just before the Parents  
16 got home. By putting pressure on his wounds, Gracie likely saved her brother's life  
17 that evening.

18           4.49 In a state of shock, Gracie tried to help O.B. and clean up the pool of  
19 blood around him. The images of her brother continue to burn in her mind today.



1           4.50 When the Parents arrived at the house, they were immediately  
2 overcome by an awful smell, as if something in the house was burning. When the  
3 Father first saw O.B.'s face, it looked like he had burned it. Gracie shouted that he  
4 had shot himself. The Parents were overcome with emotion.  
5

6           4.51 The first thing O.B.'s Parents recall him saying to them after he shot  
7 himself was that he did not want to go back to school and he did not want to be alive  
8 anymore.  
9

10           4.52 Law enforcement warned the Parents not to go into their bedroom. The  
11 Mother, Plaintiff Karla Boe, wandered around the house in a state of shock thinking  
12 it was all just a horrible dream.  
13

14           4.53 O.B. was taken to the hospital to be treated. The doctors soon realized  
15 that the gunshot missed O.B.'s brain, but severed his optic nerve, leaving him  
16 permanently blind.  
17

18           4.54 When O.B. and his Parents left for the hospital, Plaintiff Gracie Boe  
19 called her older sister to come over, so she was not alone. Gracie, in an attempt to  
20 distract herself from the trauma she had just endured, spent hours trying to clean up  
21 the blood that was splattered all over the floor, cupboards, the stairs, and the walls.  
22  
23

24           4.55 O.B. underwent extensive surgery and treatment over the next few  
25 weeks. He had severe pain in his eyes and head.

1           4.56 In Dr. Beck's notes of conversations with O.B. and his Parents,  
2 following the attempted-suicide show that O.B. had ongoing problems with mood  
3 reactivity centered around school-related issues. Additionally, Dr. Beck noted that  
4 O.B. vocalized he had difficulties in several classes with several teachers who were  
5 not supportive of him.  
6

7  
8           4.57 On February 9, 2022, the District psychologist requested evaluation  
9 papers regarding O.B.'s blindness and his mental health.  
10

11           4.58 On February 23, 2022, Dr. Beck sent the District O.B.'s ADHD and  
12 anxiety diagnosis and the accommodations letters he and previously sent requesting  
13 the 504 plan.  
14

15           4.59 The District set up a special education meeting that took place on March  
16 17, 2022. Finally, the District implemented a special education learning support plan  
17 for O.B., although only for his vision impairment and not for his ADHD or mental  
18 health issues following his attempted suicide and resulting blindness.  
19

20           4.60 When O.B. finally returned to school in Mead, he was subjected to  
21 disability-related bullying victimizing his blindness. For example, a student at his  
22 table threw peas and carrots at him. When the student would not stop, O.B. threw  
23 the food back in the direction of the student. However, only O.B. – newly blind and  
24 still hating school – was reprimanded. The very next day, that same student came  
25

1 and shoved O.B., but the District took no action to address the bullying.

2           4.61 The District treated O.B. negatively as punishment for his suicide  
3 attempt, further victimizing him in a discriminatory fashion for the mental health  
4 issues he had been experiencing, which the District had created.  
5

6           4.62 Ultimately, O.B. transferred to the Washington State School for the  
7 Blind (WSSB) in the fall of 2022, a residential program in Vancouver, Washington.  
8 The WSSB Psychologist noted with surprise that O.B.'s IEP did not address his  
9 ADHD or mental health concerns. The Parents pointed out that this was an ongoing  
10 issue that the District failed to address. WSSB ultimately remedied that omission.  
11

12           4.63 O.B., his sister Gracie Boe, and his Parents have suffered immensely  
13 from the failures of the District.  
14

15           4.64 O.B. is now permanently blind and diagnosed with post-traumatic  
16 stress disorder (PTSD) as a result of the suicide attempt and his resulting blindness.  
17 He continues to struggle with depression and anxiety as a result. He still sees Dr.  
18 Beck for psychiatry and medication management and sees Dr. Pamela Clark for  
19 counseling.  
20

21           4.65 O.B. has verbalized the lack of support he felt from the District and his  
22 teachers, who penalized him instead of providing him with assistance or  
23 accommodations.  
24  
25

1           4.66 His sister, Gracie, has been diagnosed with PTSD because of the trauma  
 2 from hearing the gunshot and finding O.B. just seconds after his attempted suicide.  
 3 She experiences moments where she still hears the gunshot and can still envision the  
 4 blood. That image of her brother forever cemented in her mind has impacted her  
 5 mental health. Her anxiety is still quite high, and she is working to cope and treat the  
 6 trauma.  
 7

8  
 9           4.67 Karla Boe, O.B.'s mother, is also diagnosed with PTSD and sought  
 10 mental health counseling following O.B.'s attempted suicide.  
 11

12           4.68 Karla, Gabriel, and Gracie were unsure whether O.B. would survive his  
 13 attempted suicide. They have supported and cared for his recovery, both mental and  
 14 physical, since his attempted suicide. This has come with many challenges, both  
 15 emotionally and financially.  
 16

17           4.69 When the District failed to provide O.B. with the support he needed,  
 18 the whole family paid the price for it.  
 19

#### 20                                   IV. CAUSES OF ACTION

##### 21           A.     **First Cause of Action: Disability-Based Discrimination Pursuant to Title** 22                   **II the Americans with Disabilities Act (ADA) (42 U.S.C. § 12132)**

23           5.1 Plaintiff O.B. re-alleges and incorporates herein the preceding  
 24 paragraphs of this Complaint as though set forth in full.  
 25

1           5.2 O.B. is an individual with disabilities. His disabilities substantially  
2 limits the major life activities of learning and concentrating. Accordingly, Plaintiff  
3 is an individual with disabilities under the American with Disabilities Act (“ADA”).  
4 29 U.S.C. § 705(20); 42 U.S.C. § 12102(1); 34 C.F.R. § 104.3(j).  
5

6           5.3 Defendant discriminated against Plaintiff O.B. solely based on his  
7 disabilities in violation of the ADA Title II, 42 U.S.C. § 12132, by *inter alia*:  
8 repeatedly refusing to engage in the federally-mandated evaluation process to  
9 determine what disability accommodations Plaintiff O.B. required and failing to  
10 provide Plaintiff O.B. with learning supports.  
11

12           5.4 At all relevant times, Defendant has been a place of public  
13 accommodation as defined under ADA Title II, 42 U.S.C. § 12131(1).  
14

15           5.5 As a direct and proximate cause of Defendant’s discrimination, Plaintiff  
16 O.B. has suffered damages in an amount to be proven at trial.  
17

18  
19 **B. Second Cause of Action: Disability-Based Discrimination in Violation of**  
20 **Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794)**

21           6.1 Plaintiff O.B. re-alleges and incorporates herein the preceding  
22 paragraphs of this Complaint as though set forth in full.  
23

24           6.2 With respect to District’s academic and other programs, O.B. is a  
25 qualified individual with disabilities within the meaning of Section 504 of the

1 Rehabilitation Act of 1973 (29 U.S.C. § 794), in that he has mental impairments  
2 that substantially limit his ability to perform one or more major life activities,  
3 including learning and concentrating, and he meets the essential eligibility  
4 requirements for the receipt of educational and other services provided by the  
5 District. 29 U.S.C. § 705(20); 42 U.S.C. § 12102(1); 34 C.F.R. § 104.3(j).  
6

7  
8 6.3 Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 bars all federally  
9 funded entities (governmental or otherwise) from discriminating on the basis of  
10 disability.  
11

12 6.4 The District receives federal financial assistance and is covered by  
13 Section 504.

14 6.5 The District enjoys no absolute, qualified, Eleventh Amendment or  
15 other immunity with respect to the Plaintiff's claim under Section 504 of the  
16 Rehabilitation Act.  
17

18 6.6 By failing to provide O.B. the academic and related modifications (or  
19 reasonable accommodations) to which he is entitled, the District violated the non-  
20 discrimination mandate set forth in Section 504 of the Rehabilitation Act and its  
21 implementing regulations. 29 U.S.C. § 794; 34 C.F.R. §§ 104.1 *et seq.*; 34 C.F.R.  
22 §§ 104.31-104.36.  
23  
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1           6.7     The District was aware that O.B. experienced emotional difficulties and  
2     was seeing a psychiatrist because of his disabilities, was negatively affected by his  
3     bad grades, needed support to be academically successful, required parental and  
4     sibling assistance with academic failures or concerns, and was taking medication.  
5

6           6.8     Although District officials were aware of O.B.'s ongoing academic  
7     failures, the District failed to offer any meaningful intervention to actually instruct  
8     or proactively assist O.B. to make academic and emotional progress as required by  
9     Section 504 and the ADA.  
10

11           6.9     Providing O.B. the academic and related modifications (reasonable  
12     accommodations) to which he was entitled would not have constituted an undue  
13     burden or hardship for the District.  
14

15           6.10    From 2019 to 2022, the District knowingly, deliberately, and  
16     wrongfully discriminated against O.B. in violation of Section 504 (b) by failing to  
17     evaluate him for a 504 plan and by denying him an education in the regular  
18     educational environment with the use of appropriate accommodations and  
19     modifications in violation of Section 504. 34 C.F.R. §§ 140.4, 104.35.  
20

21           6.11    From 2019 to 2022, the District knowingly, deliberately, and repeatedly  
22     failed to provide O.B. with an educational program and related aids and services  
23     designed to meet his needs as adequately as the needs of non-disabled students of  
24  
25

1 the District in violation of Section 504. 34 C.F.R. §§ 104.4, 104.3, each of which  
2 authoritatively construe the statute.

3  
4 6.12 From 2019 to 2022, the District knowingly, deliberately, and repeatedly  
5 failed to provide O.B. with the programs and services that would have resulted in  
6 significant learning and conferred a meaningful benefit to O.B.

7  
8 6.13 During the duration of O.B.'s enrollment in the District, reasonable  
9 accommodations necessary to provide O.B. with meaningful access to education  
10 were available to the District but were never offered or provided.

11  
12 6.14 Numerous District administrators, officials, and employees had the  
13 authority and the responsibility to rectify the District's failures, as set forth above,  
14 but wrongfully failed to take appropriate corrective actions.

15  
16 6.15 At all relevant times, the Defendant District had knowledge it was  
17 substantially likely that their acts and failures to act, as set forth in the preceding  
18 paragraphs of this Complaint, would harm O.B.'s federally protected right to be  
19 free from discrimination, and to have meaningful access to education and  
20 reasonable accommodation with respect to his educational disability. Despite this  
21 knowledge, the District failed to act upon that likelihood, thereby causing severe  
22 and permanent injury to O.B.  
23  
24  
25



1           6.16 The District's deliberate indifference to O.B.'s federally protected  
2 rights, as aforesaid, resulted in discrimination against O.B. and denied him  
3 reasonable accommodations for his educational disabilities and meaningful access  
4 to public education in Washington, thereby entitling Plaintiff O.B. to recover  
5 special and general damages from the District under Section 504 of the  
6 Rehabilitation Act in an amount to be shown at trial.  
7

8  
9           6.17 The District's deliberate indifference in violating O.B.'s rights under  
10 Section 504 was a substantial factor in causing O.B. to suffer irreversible personal  
11 injury and harm, including profound and irreparable injury, and total blindness.  
12

13  
14 **C. Third Cause of Action: Negligence**

15           7.1 Plaintiff O.B. re-alleges and incorporates herein the preceding  
16 paragraphs of this Complaint as though set forth in full.  
17

18           7.2 The District owed Plaintiff O.B. numerous duties. Defendant's duties  
19 include, but are not limited to: 1) the duty to protect students in its custody from  
20 foreseeable harm; (2) the duty to anticipate harm which may reasonably be  
21 anticipated and to then take precautions to protect students in its custody from such  
22 harm; (3) the duty to respond appropriately once aware that its students are  
23 exhibiting signs of emotional and behavioral distress and make appropriate referrals;  
24  
25

1 (4) the duty to protect its students' ability to maintain a healthy educational  
2 environment; and (5) the duty to properly ensure its employees are properly trained  
3 to perform their duties.  
4

5 7.3 The District negligently breached each of the above duties. Those  
6 breaches include, but are not limited to: (1) the failure to protect Plaintiff O.B. from  
7 foreseeable harm and to anticipate foreseeable harm of students in its custody; (2)  
8 the failure to respond appropriately when Plaintiff O.B. exhibited signs of emotional  
9 and behavioral distress duty to protect its students from foreseeable harm; (3) the  
10 failure to maintain a healthy educational environment; (4) the failure to exercise  
11 reasonable care in ensuring employees were properly trained to perform their duties  
12 owed to Plaintiff O.B.; and (5) the failure to properly train and/or supervise  
13 employees.  
14  
15  
16

17 7.4 As a direct and proximate result of its breaches of duty, Plaintiffs  
18 suffered damages set forth herein in an amount to be proven at trial.  
19

20 **D. Fourth Cause of Action: Bystander Negligent Infliction of Emotional**  
21 **Distress**

22 8.1 Plaintiffs Gracie Boe, Karla Boe, and Gabriel Boe, re-allege and  
23 incorporate herein the preceding paragraphs of this Complaint as though set forth in  
24 full.  
25

1           8.2 Washington recognizes a cause of action for negligent infliction of  
2 emotional distress is recognized where a family member “witnesses the victim's  
3 injuries at the scene of an accident shortly after it occurs and before there is a  
4 material change in the attendant circumstances.” *Colbert v. Moomba Sports, Inc.*,  
5 163 Wn.2d 43, 55, 176 P.3d 497, 503 (2008) (citing *Hegel v. McMahon*, 136 Wn.2d  
6 122, 126, 960 P.2d 424, 426 (1998)).  
7

8           8.3 Defendant negligently inflicted emotional distress upon Plaintiffs,  
9 Gracie Boe, Karla Boe, and Gabriel Boe who were bystanders to O.B.’s attempted  
10 suicide.  
11

12           8.4 The attempted suicide was foreseeably caused by O.B.’s impulsivity  
13 and school-related anxiety, given that the District had created a toxic educational  
14 environment for O.B. by failing to provide reasonable accommodations and  
15 supporting him.  
16

17           8.5 Plaintiff Gracie Boe was in the house at the time O.B. attempted  
18 suicide. She heard the gunshot and moments after she found O.B. with blood gushing  
19 from his head.  
20

21           8.6 Plaintiffs Karla and Gabriel Boe arrived minutes after O.B. attempted  
22 suicide. From Gracie calling them, they knew they needed to come home  
23 immediately, but were not prepared for the burning smell, which they later learned  
24  
25

1 was the smell of their son's skin, nor were they prepared to see their only son with a  
2 gunshot wound through his eyes.

3  
4 8.7 In breaching its duties to the Plaintiffs to respond appropriately to its  
5 students' exhibiting signs of emotional and behavioral distress and to properly train  
6 its employees to identify and deal with students in emotional distress, the District  
7 negligently inflicted emotional distress upon the bystander Plaintiffs, directly and  
8 proximately causing Plaintiffs to suffer the damages set forth herein in an amount to  
9 be proven at trial.  
10  
11

12 **E. Fifth Cause of Action: Loss of Consortium**

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14 9.1 Plaintiffs, Karla and Gabriel Boe, re-allege and incorporate herein the  
15 preceding paragraphs of this Complaint as though set forth in full.

16 9.2 Plaintiffs, Karla and Gabriel Boe, are the natural parents of O.B. and  
17 have supported him since birth.  
18

19 9.3 As a direct and proximate result of the Defendant's tortious conduct,  
20 Plaintiffs have suffered a loss of consortium with their son, resulting in general and  
21 special damages in an amount to be proven at trial.  
22

23 **V. PRAYER FOR RELIEF**

24 10.1 Plaintiffs request relief as follows:  
25

1                   10.1.1 For judgment against Defendants for state and federal civil rights  
2 violations; negligence; bystander negligent infliction of emotional distress; and loss  
3 of consortium;  
4

5                   10.1.2 For judgment against Defendant for all general and special  
6 damages in amounts to be proved at the time of trial;  
7

8                   10.1.3 For an award of costs and attorney's fees under 42 U.S.C.  
9 § 12205, 29 U.S.C. § 794 and any other applicable provisions of federal or state law;  
10 and  
11

12                   10.1.4 For such other and further relief as the Court may deem just and  
13 equitable.  
14

## 15                   **VI. RESERVATION OF RIGHTS**

16               11.1       Plaintiffs reserve the right to assert additional claims as may be  
17 appropriate following further investigation and discovery.  
18

## 19                   **VII. JURY DEMAND**

20               12.1       Under the Federal Rules of Civil Procedure, Plaintiffs demand that  
21 this action be tried before a jury.  
22

23       //

24       //

1 DATED this 3rd day of November, 2023.

2  
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COMPLAINT FOR DAMAGES AND JURY  
DEMAND – 30

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